

Modification of conditions

011SYE062 North Sydney DA.205/11 - Demolition and construction of 31 storey commercial building that has Part 3A Concept Plan approval; 177-199 Pacific Highway North Sydney

This application was before the Panel at its meeting of 7 September 2011 when it was resolved:

The Panel resolves unanimously to accept the recommendation of the planning assessment report that on the receipt of certification by the Director-General of the Department of Planning under cl28C of the North Sydney LEP 2001, the Panel grants consent to the application for the reasons mentioned in the report and subject to the conditions recommended in the report with the addition of two conditions, C44 and C45.

- C44: The applicant shall submit a bank guarantee to the amount detailed in the Railway Deed of Agreement to council before the release of any Construction Certificate.*
- C45: The setback of the glass of the podium, from the tower to the corner of Berry Street, facing the Pacific Highway shall be set back one metre from the boundary, with the setback to be finished at grade to match the levels of the Pacific Highway footpath.*

Background

The Department of Planning and Infrastructure had contacted Council with regard to changing the Railway Contribution arrangements for this development. The DG must certify acceptance of such arrangements before a consent can be issued. The applicant had indicated in writing that they would enter into a modified commitment deed with Council and will lodge a Bank Guarantee prior to the issuance of a Construction Certificate and pay the contribution prior to the issuance of any Occupation Certificate. Condition G10 was provided in the draft conditions for the payment of the contribution.

Council would not accept the modified commitment deed and required the applicant to enter into the standard deed with Council that involves a Bank Guarantee with the deed (prior to consent being granted) and payment of the contribution prior to the release of the Construction Certificate. The applicant has now signed the deed and provided the Bank Guarantee to Council. The certification from the Director General should be issued in the next few weeks.

As the deed is now different to that proposed in September 2011, several conditions need to be modified:

- Condition G10 be deleted
- Condition C37 be modified with regard to the amount of Railway Contribution – now \$4,373,430.45
- Condition C44 to read:

- C44. The applicant shall pay the Railway Contribution as required under the Developer Commitment Deed prior to the release of the Construction Certificate.